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5
6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA
8 SAN FRANCISCO DIVISION

9 BRANDI BROOKS,) NO. C-07-2662-BZ
10 Plaintiff,) FIRST AMENDED
11 VS.) COMPLAINT FOR DECLARATORY
12 BOARD OF REGENTS OF THE) RELIEF, INJUNCTIVE RELIEF
UNIVERSITY OF CALIFORNIA,) AND DAMAGES
13 Defendant.) DEMAND FOR JURY TRIAL
14) 42 U.S.C. Sec. 1981

15 Plaintiff alleges:

16 I

17 FACTS COMMON TO ALL CAUSES OF ACTION

18 1. Plaintiff, BRANDI BROOKS, is a Black (African American) female and was
19 employed by the University of California at Oakland, California.

20 2. Defendant, BOARD OF REGENTS OF THE UNIVERSITY OF CALIFORNIA, is a
21 public entity of the State of California and owns, operates and maintains the campuses of the
22 University of California in the State of California.

23 3. On or about December 4, 2000, Plaintiff was employed as a Licensing Assistant in the
24 Office of Technology Transfer, University of California at 1111 Franklin Street, Oakland,
25 California.

26 4. During the entire tenure of her employment by Defendant, Plaintiff has always

performed all of her assigned and related duties in an excellent fashion.

5. Notwithstanding, Plaintiff has been subjected to egregious, unlawful, discriminatory employment practices culminating in the termination of her employment on or about October 3, 2005, without cause or provocation.

6. As a direct result of the acts and conduct of Defendant as alleged herein, Plaintiff has suffered and continues to suffer substantial loss of earnings and related employment benefits in an amount to be proven at trial herein as alleged below.

II

FIRST CAUSE OF ACTION PURSUANT TO 42 U.S.C. 1981

7. As a first, separate and distinct cause of action, Plaintiff complains of Defendants and each of them, jointly and severally, and for a cause of action alleges:

8. The allegations of paragraphs 1 through 6 above are re-alleged and incorporated herein by reference.

9. Jurisdiction of this Court is invoked pursuant to the provisions of 28 U.S.C. Section 1331 to enforce the provisions of 42 U.S.C. 1981 which guarantees, among other things that all persons shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence and to the full and equal property as is enjoyed by white citizens.

9. Venue is proper in the Northern District of California.

10. As a direct result of the acts and conduct of Defendant, as alleged herein, Plaintiff has suffered loss of and continues to suffer substantial loss of earnings and related employment benefits in an amount to be proven at trial herein.

11. In doing the acts and in engaging in the conduct herein alleged, Defendant intended to and did vex, harass, annoy and cause Plaintiff to suffer and continue to suffer severe emotional distress for which Plaintiff has been compelled to seek and continue medical care and incur medical expenses therefor.

III

1 PRAYER FOR RELIEF

2 WHEREFORE, Plaintiff prays judgment against Defendant as follows:

3 (A) Grant Plaintiff a declaratory judgment that Defendants have violated Plaintiff's rights
4 as guaranteed by, 42 U.S.C. Section 1981 in committing the acts and in engaging in the conduct
5 complained of herein;

6 (B) Permanently enjoin Defendants, their agents, successors, and employees and those
7 acting in concert with them from engaging in each of the unlawful practices and policies
8 complained of herein;

9 (C) Award Plaintiff damages for all earnings lost, including future earnings loss and for
10 loss of related employment benefits;

11 (D) Award Plaintiff damages for lost career and employment opportunities;

12 (E) Order that all negative material be removed from Plaintiff's personnel file or any
13 other files or records maintained in connection with Plaintiff's employment;

14 (F) Award Plaintiff damages for severe psychological harm in an amount to be proven at
15 trial;

16 (G) Award Plaintiff costs of suit;

17 (H) Grant Plaintiff reasonable attorney's fees; and

18 (I) Grant Plaintiff such other and future relief as the Court may deem proper and just.

19 VI

20 SECOND CAUSE OF ACTION

21 CALIFORNIA GOVERNMENT CODE SECTIONS 12900, ET SEQ.,

22 12940a

23 RACE AND COLOR

24 As a second, separate and distinct cause of action, Plaintiff complains of Defendants and
25 each of them, jointly and severally, and for a cause of action alleges:

26 12. The allegations of paragraphs 1 through 11 above are re-alleged and incorporated

herein by reference.

13. Jurisdiction of this Court is invoked pursuant to the provisions of Government Code Section 12965, as amended, seeking a declaratory judgment, injunctive relief and damages for violations of Plaintiff's employment rights as protected by the Fair Employment and Housing Act, (FEHA), Government Code Section 12940a, which provides that it shall be unlawful for an employer to discriminate against an employee, among other things, on account of race, color and national origin/ancestry.

14. Plaintiff was an employee of African ancestry (Black) and is therefore a person protected by said provisions of said Act.

15. Defendant has maintained a pattern and practice of unlawful discriminatory employment practices against Plaintiff on account of her race and color by engaging in the actions and conduct as alleged above in violation of the Fair Employment and Housing Act, Government Code Section 12940a.

16. As a direct result of the acts and conduct of Defendant, as alleged herein, Plaintiff has suffered loss of and continues to suffer substantial loss of earnings and related employment benefits in an amount to be proven at trial herein.

17. In doing the acts and in engaging in the conduct herein alleged, Defendant intended to and did vex, harass, annoy and cause Plaintiff to suffer and continue to suffer severe emotional distress for which Plaintiff has been compelled to seek and continue medical care and incur medical expenses therefor.

18. Plaintiff duly filed an administrative charge of discrimination herein with the California Department of Fair Employment and Housing (DFEH) which duly issued a notice of right to sue herein. Within 60 days after the filing of said complaint, Plaintiff duly served same on Defendants by certified mail. Plaintiff has exhausted all of her administrative remedies herein, and this action has been timely filed.

V

THIRD CAUSE OF ACTION

CALIFORNIA GOVERNMENT CODE SECTIONS 12900, ET SEQ.,

12940a

SEX DISCRIMINATION

As a second, separate and distinct cause of action, Plaintiff complains of Defendants and each of them, jointly and severally, and for a cause of action alleges:

19. The allegations of paragraphs 1 through 18 above are re-alleged and incorporated herein by reference.

20. Jurisdiction of this Court is invoked pursuant to the provisions of Government Code Section 12965, as amended, seeking a declaratory judgment, injunctive relief and damages for violations of Plaintiff's employment rights as protected by the Fair Employment and Housing Act, (FEHA), Government Code Section 12940a, which provides that it shall be unlawful for an employer to discriminate against an employee, among other things, on account of her sex.

21. Plaintiff was a female employee and was therefore a person protected by said provisions of said Act.

22. Defendant has maintained a pattern and practice of unlawful discriminatory employment practices against Plaintiff on account of her sex by engaging in the actions and conduct as alleged in paragraph 5 above, in violation of the Fair Employment and Housing Act, Government Code Section 12940a.

23. As a direct result of the acts and conduct of Defendant, as alleged herein, Plaintiff has suffered loss of and continues to suffer substantial loss of earnings and related employment benefits in an amount to be proven at trial herein.

24. In doing the acts and in engaging in the conduct herein alleged, Defendant intended to and did vex, harass, annoy and cause Plaintiff to suffer and continue to suffer severe emotional distress for which Plaintiff has been compelled to seek and continue medical care and incur medical expenses therefor.

25. Plaintiff duly filed an administrative charge of discrimination herein with the California Department of Fair Employment and Housing (DFEH) which duly issued a notice of right to sue herein. Within 60 days after the filing of said complaint, Plaintiff duly served same on Defendants by certified mail. Plaintiff has exhausted all of her administrative remedies herein, and this action has been timely filed.

VI

THIRD CAUSE OF ACTION

CALIFORNIA GOVERNMENT CODE SECTIONS 12900, ET SEQ.,

12940a

RETALIATION

As a third, separate and distinct cause of action, Plaintiff complains of Defendants and each of them, jointly and severally, and for a cause of action alleges:

26. The allegations of paragraphs 1 through 25 above are re-alleged and incorporated herein by reference.

27. Jurisdiction of this Court is invoked pursuant to the provisions of Government Code Section 12965, as amended, seeking a declaratory judgment, injunctive relief and damages for violations of Plaintiff's employment rights as protected by the Fair Employment and Housing Act, (FEHA), Government Code Section 12940a, which provides that it shall be unlawful for an employer to retaliate against an employee, because of said employee's protests of unlawful discriminatory employment practices, or association with a person protesting alleged discriminatory employment practices.

28. Plaintiff was an employee of Defendant who protested violations of Government Code Section 12940a, *et seq.*, and was associated with a person protesting Defendant's unlawful discriminatory employment practices.

29. Defendant has subjected Plaintiff to a pattern and practice of egregious retaliatory actions and conduct, which have included, but have not been limited to, the actions and conduct

1 alleged in paragraph 5 hereof, as alleged herein, because of her continuing protests of Defendants
2 continuing said unlawful discriminatory employment practices.

3 30. Defendant has taken such actions against Plaintiff in violation of Government Code
4 Section 12940h.

5 31. As a direct result of the acts and conduct of Defendant, as alleged herein, Plaintiff
6 has suffered loss of and continues to suffer substantial loss of earnings and related employment
7 benefits in an amount to be proven at trial herein.

8 32. In doing the acts and in engaging in the conduct herein alleged, Defendant intended
9 to and did vex, harass, annoy and cause Plaintiff to suffer and continue to suffer severe emotional
10 distress for which Plaintiff has been compelled to seek and continue medical care and incur
11 medical expenses therefor.

12 33. Plaintiff duly filed an administrative charge of discrimination herein with the
13 California Department of Fair Employment and Housing (DFEH) which duly issued a notice of
14 right to sue herein. Within 60 days after the filing of said complaint, Plaintiff duly served same
15 on Defendants by certified mail. Plaintiff has exhausted all of her administrative remedies
16 herein, and this action has been timely filed.

17 PRAYER FOR RELIEF

18 WHEREFORE, Plaintiff prays judgment against Defendant as follows:

19 (A) Grant Plaintiff a declaratory judgment that Defendants have violated Plaintiff's rights
20 as guaranteed by, Government Code Section 12900, et seq., in committing the acts and in
21 engaging in the conduct complained of herein;

22 (B) Permanently enjoin Defendants, their agents, successors, and employees and those
23 acting in concert with them from engaging in each of the unlawful practices and policies
24 complained of herein;

25 (C) Award Plaintiff damages for all earnings lost, including future earnings loss and for
26 loss of related employment benefits;

1 (D) Award Plaintiff damages for lost career and employment opportunities;

2 (E) Order that all negative material be removed from Plaintiff's personnel file or any

3 other files or records maintained in connection with Plaintiff's employment;

4 (F) Award Plaintiff damages for severe psychological harm in an amount to be proven at

5 trial;

6 (G) Award Plaintiff costs of suit;

7 (H) Grant Plaintiff reasonable attorney's fees; and

8 (I) Grant Plaintiff such other and future relief as the Court may deem proper and just.

9 Dated: July11, 2007

10 Respectfully submitted.

11

CURTIS G. OLER
12 Attorney for Plaintiff